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Allied Fishing Groups

1360 Neilson Street / Berkeley CA 94702 / 510.526.4049

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California Sportfishing Protection Alliance / California Striped Bass Association / Chico Flyfishers
Coastside Fishing Club / Dan Blanton's StriperFest / Delta Fly Fishers / Diablo Valley Fly Fishermen
E.C. Powell Fly Fishers / Fishery Foundation of California / Fly Fishers For Conservation
Fly Fishers of Davis / Friends of Butte Creek / Granite Bay Flycasters / Gold Country Fly Fishers
Grizzly Peak Flyfishers / Golden Gate Angling & Casting Club / Golden West Women Flyfishers
Hi's Tackle Box / ICON Products Inc. / Mission Peak Fly Anglers / NCC - Federation of Fly Fishers
NORCAL Kayak Anglers / Pacific Coast Federation of Fishermen's Association / Palo Alto Flyfishers
Pasadena Casting Club / Peninsula Fly Fishers / Recreational Fishing Alliance
Salmon Restoration Association / Santa Cruz Fly Fisherman / Shasta Trinity Fly Fishers
SWC - Federation of Fly Fishers / Tracy Fly Fishers / Tri-Valley Fly Fishers / United Anglers of California
United Pier & Shore Anglers of Calif. / USA Fishing / Wilderness Fly Fishers

3.26.2012

Delta Stewardship Council
Chairman Phil Isenberg
980 Ninth Street, Suite 150
Sacramento, CA 95814

Dear Chairman Isenberg:

Enclosed you will find a copy of our letter regarding the Council's support of the striped bass regulations proposed by the DFG-Citizens for a Sustainable Delta as the result of a settlement agreement of the litigation filed by CSD.

We would greatly appreciate your review of our letter, as this is a most important issue with the Allied Fishing Groups. We would hope you can suggest a possible resolution to the position taken by the Council on this subject.

Should you have any questions or if you would like to discuss this issue with me, please let me know.

Sincerely,


John Beuttler

AFG Conservation Director

Allied Fishing Groups

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3.26.2012

Delta Stewardship Council
P. Joseph Grindstaff, Executive Officer
980 Ninth Street, Suite 150
Sacramento, CA 95814

Re: The DSC Letter of 1/20/2012 to the California Fish & Game Commission
Supporting the DFG's Proposed Striped Bass Regulations

Mr. Grindstaff and Members of the Delta Stewardship Council:

The Allied Fishing Groups would like to advise you of our strong disagreement with the Council's recent letter of support for the striped bass sport fishing regulation changes proposed by the California Department of Fish and Game. As the Council may be aware, that proposal was defeated by the unanimous vote of the California Fish & Game Commissioners in attendance during their February 2012 meeting.

Our organization along with other sport fishing groups and several hundred anglers attended the Commission's meeting and expressed our adamant opposition to the proposal. We did not know until this meeting that the Delta Stewardship Council was in support of the proposal. After reviewing your letter to the Commission, we are very concerned that the Council may not have had access to all the relevant scientific, historic and legal information on the striped bass fishery and its role in the Bay-Delta estuary's ecosystem. We would like to believe that had you been provided such information, your decision may have been different. We request the Council work with us to resolve this unfortunate situation. To that end, we have provided the following information for your consideration.

The regulation proposal was the result of a settlement agreement to litigation filed by the "Coalition for a Sustainable Delta" (CSD) in 2007 and settled in 2010 regarding striped bass predation. The Federal District Court's ruling on the CSD

motion for summary judgment unequivocally stated the CSD failed to demonstrate striped bass predation had a population level impact on any of the fish species listed under the Endangered Species Act that utilized the Bay - Delta estuary and its tributaries. Federal Court Justice Wanger heard all of the predation allegations by the CSD expert witnesses and the rebuttal evidence provided by the DFG based on peer reviewed scientific studies. This evidence demonstrated that striped bass did not impact the population levels of any of the estuary's listed fisheries. The court found CSD had not used properly peer reviewed science to support their allegations and ruled against them and for the Department on every predation allegation. (See pages 87-93 - U.S. Dist. Court's Summary Judgment Decision, Plaintiffs Summary Judgment Motion 1: 08 -cv - 003 97 OWW SKO Document 168 7/10/2010).

In spite of this decisive victory, the Department entered into a settlement agreement with CSD that compelled the Department to not manage the striped bass fishery using the best available science. Due to this, several Allied Fishing Groups organizations that had intervened in this litigation opposed the CSD - DFG settlement agreement. However, the court accepted the settlement agreement. Following the Court's acceptance, the Department proposed regulations that were clearly contrary to the California Fish and Game Commission's policies and the Federal Court's Summary Judgment ruling.

The severe decline of the striped bass fishery since the late 1960's demonstrates that the sport fishing regulations have not enabled the fishery to be managed on a sustainable basis. The Department's proposed regulations encouraged excessive harvest that could have had catastrophic impacts on the little that remains of this resource. They also proposed to "adaptively manage" the impacts of their regulation proposal, but lacked the funding and the demonstrable experience to conduct an adaptive management program of the magnitude that would be required to address any undesirable impacts. Given the collapse of this fishery, the public is fortunate that an adaptive management program is not necessary.

Fortunately, the Commission was not legally bound by the settlement agreement and they were not required to support regulations that could lead to the further degradation of the striped bass fishery. Refusing to promulgate the Department's regulation proposal kept them consistent with their policies to ensure, enhance, and prevent the loss of sport fishing opportunities. The Commission also has a fiduciary duty to hold the public's fish and wildlife resources in trust and to manage them at sustainable population levels in accordance with the Commission's statutory responsibilities.

As part of a 2010 "Public Informational Proceeding on the Delta Flow Criteria," a panel was convened by the State Water Resources Control Board to evaluate all the stressors on the estuary's fisheries. The "Anadromous Fishery Panel", comprised of leading estuarine and fishery scientists noted that striped bass predation was not affecting the population levels of Listed Species. They

recommended that the agencies working to restore the estuary's ecology focus on the significant stressors in the estuary caused by the State and Federal Water Projects that have substantially degraded all of its fisheries and their habitat. They ranked striped bass predation as the least important of these stressors. A list of the panel members is appended to this letter for your review.

Given the prolonged decline of the striped bass fishery, we are reminded of the warning from Dr. Peter Moyle and Dr. William Bennett that striped bass predation on a forage species in the Delta called "Inland Silversides" plays a significant role in reducing the Silversides predation on Delta Smelt eggs. The further degradation of the striped bass fishery could have serious unintended consequences for this listed species as well as significant effects on the estuary's ecology and its' collapsing food web. We suggest that putting Delta smelt in greater danger of extinction is not sound resource policy. The condition of the estuary's ecology is serious enough without taking actions that could result in greater harm.

If the Council wants to take significant affirmative action to reduce the predation in the estuarine system on salmonids, then we would recommend you review the CALFED Record of Decision regarding the imperative need to provide state-of-the-art fish screens to significantly reduce the direct losses of many millions of fish killed by the State and Federal Water Project. These projects are by far the largest predators in the estuary by many orders of magnitude. In addition to the massive entrainment losses by the export facilities, you may want to also consider that much of the documented predation in the estuary is associated with other State and Federal water project facilities that were designed and are operated in a manner that encourages predation.

We noted in your letter that you called the non-native striped bass an "invasive species". We believe this mischaracterization is unfortunate as the fish was intentionally introduced by the California Fish and Game Commission in 1879 and it became a functional part of the estuarine ecosystem. It is not an invasive species, as is the water plant, egeria densa or the Overbite Clam (*Corbula amurensis*) because it does not threaten the diversity or abundance of native species through competition for ecosystem resources.

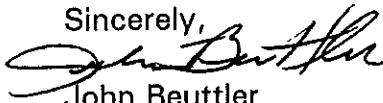
The striped bass fishery is a very valuable public resource. It has declined from some 3 to 4 million adult fish in the 1960's to some 550,000 today. If you review the population modeling, you will see its' collapse coincides with that of the listed salmonids and other anadromous species that utilize the estuary. In the not too distant past, the striped bass fishery was a premier fishery of the estuary generating more than a million angler days of fishing annually. It has co-existed with our once bountiful runs of salmon and steelhead for more than a century. The decline of this fishery in conjunction with that of our salmon and steelhead has cost local, regional, state and national economies billions of dollars in lost income and tax revenues over the past fifty years.

As a natural resource, the striped bass fishery is protected under public trust law and the State's Fish and Game Codes passed by the State Legislature. Given the horrific and prolonged declines of all of the estuary's fisheries, the Council should consider finding room for the striped bass fishery under the banner of your primary purpose as prescribed by the state's Water Code Section 85054.

""Coequal goals' means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

We are also concerned for the fate of all the estuary's fisheries. We ardently support the need to manage these fisheries on a sustainable basis that gives priority to Listed Species. A number of the organizations that comprise the Allied Fishing Groups have played a longstanding leadership role in urging the conservation and protection of all of the estuary's fisheries and its ecosystem with State and Federal Agencies, State Administrations, the State Legislature and Congress. We hope that we can discuss further and work with the Council to ensure the protection of the estuary and its' fishery resources.

Sincerely,



John Beuttler
Conservation Director

cc: Phil Isenberg, Chair, Delta Stewardship Council
Sonke Mastrup, California Fish & Game Commission Executive Director
Jared Huffman, Chairman - Assembly Water, Parks & Wildlife Committee
Charlton H. Bonham, Director California Department of Fish & Game

Scientists on the SWRCB's Anadromous Fishery Panel:

William Bennett, University of California at Davis
Jon Burau, United States Geological Survey
Cliff Dahm, Calfed Science Program
Chris Enright, Department of Water Resources
Fred Feyrer, United States Bureau of Reclamation
William Fleenor, University of California at Davis
Bruce Herbold, United States Environmental Protection Agency
Wim Kimmerer, Romberg Tiburon Center, San Francisco State University
Jay Lund, University of California at Davis
Peter Moyle, University of California at Davis
Matt Nobriga, Department of Fish and Game